UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION

DOCKET NO. 1:14-cv-00099-MOC [Bankruptcy No. 11-10053]

| IN RE: |) |
|-----------------------------|-------------|
| BILTMORE INVESTMENTS, LTD., |)) |
| Debtor. | ORDER |
| BILTMORE INVESTMENTS, LTD. | ,)) |
| Appellant, |)) |
| v. |)) |
| TD BANK, N.A., |)) |
| Appellee. |))) |

THIS MATTER is before the court on the recent decision from the Fourth Circuit Court of Appeals (#21) vacating and remanding this court's previous Order (#9) on Biltmore Investments, Ltd.'s Notice of Appeal (#1). Having read the decision and considered the Fourth Circuit's instructions, the court finds that a hearing on the legal issues to be addressed upon remand would be appropriate and helpful. In particular, the court is interested in the party's arguments on the issue raised in Appellant's brief (#3) as to whether an injunction should have issued under 11 U.S.C. § 105. Upon review of the transcript of the November 4, 2014 hearing initially conducted in this case, it does not appear that that issue was thoroughly addressed. The court will therefore calendar this matter for a hearing on the next Asheville civil motions day.

Additionally, the court notes that if the parties wish to submit additional briefing on the issues to be heard upon remand before the hearing, they may file a motion with the court to set a briefing schedule.

ORDER

IT IS, THEREFORE, ORDERED that the Clerk of Court calendar this matter for a hearing on November 2, 2015, after that day's civil docket call.

Signed: October 9, 2015

Max O. Cogburn Jr

United States District Judge